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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,085	09/08/2004	Jurgen Kassner	FRM-04601	8839
26339	7590	03/09/2006	EXAMINER	
MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY, SUITE 1001 WESTBOROUGH, MA 01581			RUDDOCK, ULA CORINNA	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/507,085

Applicant(s)

KASSNER, JURGEN

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/8/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's election without traverse of Group I, claims 1-18 in the reply filed on December 19, 2005, is acknowledged.

#### ***Claim Rejections - 35 USC § 102/103***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 19652584 (DE '584). DE '584 discloses a textile lattice for use to reinforce bitumen-bound layers. Intersecting threads consist of man-made fibers which are applied on a thin nonwoven by Raschel knitting (abstract). A bonding substance having an affinity to bitumen treats both the threads and the nonwoven. The underside of the composite of the textile lattice and nonwoven may be provided with a bituminous mastic. The lattice threads are made of polyvinyl alcohol. The lattice threads are surrounded by Raschel locking threads, which the Examiner is equating to Applicant's binding threads.

Although DE '584 does not explicitly teach the claimed ductile yield, that the force absorbed by the polyvinyl alcohol strands increases into the range of the ductile yield in proportion to the value of the strain of the strands, that the two intersecting strands have a ductile yield that corresponds to or is approximately equal to a ductile yield of the bituminous layer, and that the absorbed stress value of the two intersecting strands for a given cross section is approximately proportional to a value of strain in the strands, it is reasonable to presume that these properties are inherent to the invention of DE '584. Support for said presumption is found in the use of like materials (i.e. polyvinyl alcohol lattice, nonwoven backing, bonding substance, and binding threads). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of a ductile yield between 3-8%, that the force absorbed by the polyvinyl alcohol strands increases into the range of the ductile yield in proportion to the value of the strain of the strands, that the two intersecting strands have a ductile yield that corresponds to or is approximately equal to a ductile yield of the bituminous layer, and that the absorbed stress value of the two intersecting strands for a given cross section is approximately proportional to a value of strain in the strands would obviously have been present once the product of DE '584 is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *ucr*

*Ula Ruddock*  
**ULA RUDDOCK**  
**PRIMARY EXAMINER**